

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 952

Introduced by Burling, 33; Jensen, 20; Quandahl, 31

Read first time January 10, 2002

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to adoption; to amend sections 43-143 and
2 43-146.01, Reissue Revised Statutes of Nebraska, and
3 section 43-104, Revised Statutes Supplement, 2000; to
4 provide access to adoption records by heirs as
5 prescribed; to change provisions relating to
6 relinquishments; to eliminate prospective adoptive parent
7 nonconsent forms as prescribed; to harmonize provisions;
8 and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. If (1) the relinquishment or consent for
2 adoption was given on or after the effective date of this act and
3 (2) the adopted person and the adopted person's biological parent
4 or parents who relinquished the child for adoption or consented to
5 the adoption are deceased, an heir of the adopted person twenty-one
6 years of age or older who desires access to the names of relatives
7 or access to the original certificate of birth of such adopted
8 person shall file a written request for such information with the
9 Department of Health and Human Services Finance and Support. The
10 department shall provide a form for making such request.

11 Sec. 2. Upon receipt of a request for information made
12 under section 1 of this act, if the Department of Health and Human
13 Services Finance and Support has verified information indicating
14 that the adopted person is deceased and verified information
15 indicating that both biological parents of the adopted person are
16 deceased or if only one biological parent is known and verified
17 information indicates that such parent is deceased, the following
18 information shall be released to the heir of the adopted person:

19 (1) The name and address of the court which issued the
20 adoption decree;

21 (2) The name and address of the child placement agency,
22 if any, involved in the adoption;

23 (3) A copy of the adopted person's original birth
24 certificate; and

25 (4) A copy of the adopted person's medical history and
26 any medical records on file.

27 Sec. 3. Notwithstanding sections 43-119 to 43-146.16 and
28 sections 1 and 2 of this act, an heir of an adopted person

1 twenty-one years or older shall have access to all information on
2 file at the Department of Health and Human Services Finance and
3 Support related to such adopted person, including information
4 contained in the original birth certificate of such adopted person,
5 if at least one hundred years has passed since the birth of such
6 adopted person. The department shall provide a form for requesting
7 such information. The department may charge a reasonable fee in an
8 amount established by rules and regulations of the department to
9 recover expenses in carrying out this section. The department may
10 waive the fee if the requesting party shows that the fee would work
11 an undue financial hardship on the party. When any information is
12 provided to the heir of an adopted person under this section, the
13 department shall record in the records of the adopted person the
14 nature of the information disclosed, to whom the information was
15 disclosed, and the date of the disclosure.

16 Sec. 4. Section 43-104, Revised Statutes Supplement,
17 2000, is amended to read:

18 43-104. Except as otherwise provided in the Nebraska
19 Indian Child Welfare Act, no adoption shall be decreed unless
20 written consents thereto are filed in the court of the county in
21 which the person or persons desiring to adopt reside and the
22 written consents are executed by (1) the minor child, if over
23 fourteen years of age, or the adult child, (2) any district court,
24 county court, or separate juvenile court in the State of Nebraska
25 having jurisdiction of the custody of a minor child by virtue of
26 divorce proceedings had in any district court, county court, or
27 separate juvenile court in the State of Nebraska or by virtue of
28 section 43-1203, and (3) both parents of a child born in lawful

1 wedlock if living, the surviving parent of a child born in lawful
2 wedlock, the mother of a child born out of wedlock, or both the
3 mother and father of a child born out of wedlock as determined
4 pursuant to sections 43-104.08 to 43-104.24, except that consent
5 shall not be required of any parent who (a) has relinquished the
6 child for adoption by a written instrument, (b) has abandoned the
7 child for at least six months next preceding the filing of the
8 adoption petition, (c) has been deprived of his or her parental
9 rights to such child by the order of any court of competent
10 jurisdiction, or (d) is incapable of consenting. On and after the
11 effective date of this act, a relinquishment of a child for
12 adoption by a written instrument under this section shall not be
13 valid unless signed at least forty-eight hours after the birth of
14 the child.

15 Sec. 5. Section 43-143, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-143. For adoptions in which the relinquishment or
18 consent for adoption was given prior to the effective date of this
19 act: An adoptive parent or parents may at any time, if they
20 desire, file a notice of nonconsent with the Department of Health
21 and Human Services Finance and Support stating that at no time
22 prior to his or her death or the death of both parents if each
23 signed the form may any information on the adopted person's
24 original birth certificate be released to such adopted person. The
25 provisions of this section shall not apply to persons subject to
26 the Nebraska Indian Child Welfare Act.

27 Sec. 6. Section 43-146.01, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 43-146.01. (1) Sections 43-106.02, 43-121, 43-123.01,
2 and 43-146.02 to 43-146.16 shall provide the procedures for gaining
3 access to information concerning an adopted person when a
4 relinquishment or consent for an adoption is given on or after
5 September 1, 1988.

6 (2) Sections 43-119 to 43-142 shall remain in effect for
7 a relinquishment or consent for an adoption which is given prior to
8 September 1, 1988.

9 (3) Except as otherwise provided in subsection (2) of
10 section 43-107, ~~and~~ subdivisions (1)(b) and (1)(c) of section
11 43-109, and subsection (4) of this section: Sections ~~sections~~
12 43-101 to 43-118, 43-143 to 43-146, 71-626, 71-626.01, and
13 71-627.02 shall apply to all adoptions.

14 (4) Sections 43-143 to 43-146 shall not apply to adopted
15 persons for whom a relinquishment or consent for adoption was given
16 on and after the effective date of this act.

17 (5) Sections 1 and 2 of this act shall apply to
18 procedures for gaining access to information concerning an adopted
19 person when a relinquishment or consent for an adoption is given on
20 and after the effective date of this act.

21 Sec. 7. Original sections 43-143 and 43-146.01, Reissue
22 Revised Statutes of Nebraska, and section 43-104, Revised Statutes
23 Supplement, 2000, are repealed.